IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE V.GIRI

SATURDAY, THE 18TH AUGUST 2007 / 27TH SRAVANA 1929

MFA.No. 817 of 2001()

OPMV.2377/1993 of MOTOR ACCIDENT CLAIMS TRIBUNAL, IRINJALAKUDA
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APPELLANT/PETITIONER:

GEORGE,S/O.VAREED,PAREKKADAN HOUSE, RESIDING AT KUZHOOR DESOM, KAKKULASSERRY VILLAGE, KUZHOOR P.O., MUKUNDAPURAM TALUK.

BY ADV. SRI.P.V.BABY
SRI.A.N.SANTHOSH

RESPONDENTS/RESPONDENTS:

1.MANAGING DIRECTOR, KERALA STATE ROAD TRANSPORT CORP. FORT, TRIVANDRUM.

2.SADAN,S/O.ACHUTHAN,THURUTHIPILLY HOUSE, MARADU P.O., ERNAKULAM DISTRICT.

BY ADV. SRI.K.SHRIHARI RAO FOR R2
SMT.N.SHOBHA
SRI.JOHNSON P. JOHN FOR R1

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 18/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & V.GIRI, JJ.

M.F.A.NO.817 OF 2001 (A)

Dated this the 18th day of August, 2007

J U D G M E N T

KOSHY,J.

Appellant/Claimant suffered serious injuries in a motor accident on 9.6.1993. While he was walking through the road, a bus owned by the 1st respondent and driven by the 2nd respondent hit him. Tribunal found that accident occurred due to the negligence of the driver of the vehicle. Only quantum of compensation is disputed in the appeal.

2. Tribunal has taken Rs.1,000/- as the monthly income. Under the Second schedule, the notional monthly income of a non-earning person is taken as Rs.1,250/- per month. (Rs.15,000/- per year). Here he was an earning person maintaining his family. He was a coolie. It is contended that he was getting Rs.150/- per day. In any event, we fix Rs.1,500/- as the monthly income instead of Rs.1,000/- as there

is no data regarding the income. With regard to injuries, according to the petitioner he suffered blunt injury to abdomen, injury to spleen and to liver, lacerated wound on the left side of forehead, lacerated wound to right knee and to right hip etc. Petitioner has produced Exts.A5 to A9 to substantiate the claim. Ext.A5 is the copy of the wound certificate issued from Little Flower Hospital, Angamaly, wherein it is noted that the petitioner was brought to that hospital at 8.30 p.m. on 9.6.1993 with the following injuries sustained by him in a bus accident:

1. Lacerated wound 3 cm. left eyebrow.
2. Abrasion right cheek.
3. Abrasion right elbow.
4. Abrasion right knee.
5. Swelling contusion left side abdomen, upper aspect.
6. Internal injuries-Haemoperitoneum with clots.
7. Spleen ruptured into three pieces, splenectomy done.

Ext.A6 series (2 Nos.) are the discharge summaries issued from Little Flower Hospital, Angamaly, wherein it is noted that the petitioner was admitted as inpatient in that hospital from 10.6.1993 to 23.6.1993, spleenectomy was done from

10.6.1993 to 19.10.1993 for sub acute internal obstruction. Ext.A7 series (18 Nos.) are the medical bills for a total amount of Rs.3,022.70 as noted in the document list. Ext.A8 series (2 Nos.) are the O.P. tickets issued from the Medical College Hospital, Thrissur which would reveal that the petitioner took treatment from that hospital as outpatient on 30.3.1994, 27.4.1994 and on 1.6.1994. Ext.A9 is the disability certificate issued by Dr.R.V.Prasad, Assistant Professor of Surgery at Medical College Hospital, Thrissur, wherein it is certified that the petitioner has a permanent disability of 15%. Medical certificate was proved by the Doctor who was examined as PW1. He also deposed that the petitioner sustained internal injuries and haemoperitonial with clots (blood in the abdominal cavity) spleen ruptured into three pieces, underwent emergency surgery and spleen was removed, that the petitioner was treated from Medical College Hospital, Thrissur, and the removal of spleen can make the petitioner more prone to infection etc. Without any valid reasons, tribunal has taken only 8% permanent disability for the purpose of calculating compensation ignoring the medical certificate assessing 15% disability 16 was taken as the multiplier, taking guideline from the Second schedule, compensation calculated for 15%

disability is Rs.1,500 x 12 x 16 x 15/100 = Rs.43,200/-. Tribunal has awarded only Rs.15,360/-. Therefore additional compensation for disability will be Rs.27,840/-. Tribunal found that he was under treatment for four months and an amount of Rs.4,000/- was awarded taking Rs.1,000/- as the monthly income. Since we have taken Rs.1,500/- as the monthly income, he will be entitled to Rs.2,000/- more. Thus additional compensation will be Rs.29,840/- over and above the decreed amount by the tribunal. Even though compensation under all other heads are very meager, we are of the opinion that no enhancement is needed in the other heads. Hence the additional compensation of Rs.29,840/- should be deposited by the 1st respondent K.S.R.T.C. with 7.5% interest from the date of application till its deposit. Appeal is accordingly partly allowed.

J.B.KOSHY, JUDGE

V.GIRI, JUDGE

prp

J.B.KOSHY & V.GIRI, JJ.

M.F.A.NO.817 OF 2001 (A)

J U D G M E N T

18th August, 2007